

MAIL TO:

STATE OF UTAH
 DIVISION OF PURCHASING
 3150 STATE OFFICE BUILDING, STATE CAPITOL
 P.O. BOX 141061
 SALT LAKE CITY, UTAH 84114-1061
 TELEPHONE (801) 538-3026
<http://www.purchasing.state.ut.us>

Request for ProposalSolicitation Number: **NO3058-1**Due Date: **01/17/03 at END OF DAY**

Date Sent: January 6, 2003

Agency Contract

Goods and services to be
 purchased:

***IN LIEU OF PREVIOUS RFP* PROMOTIONS CAMPAIGN FOR HERITAGE PARKS THROUGHOUT
 STATE PARK SYSTEM**

Please complete

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes ____ No _____. If no, enter where produced, etc. _____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

**STATE OF UTAH
DIVISION OF PURCHASING**

Request for Proposal

Solicitation Number: NO3058-1

Due Date: 01/17/03

Vendor Name:

* IN LIEU OF PREVIOUS RFP* PROMOTIONS CAMPAIGN FOR HERITAGE PARKS THROUGHOUT STATE PARK SYSTEM, PER THE ATTACHED RFP.

QUESTIONS ON SPECIFICATIONS CALL KAREN KRIEGER AT (801) 538-7367 OR DEE GUESS AT (801) 538-7320.

QUESTIONS ON PURCHASING PROCESS (NOT RELATED TO SPECIFICATIONS) CALL NANCY ORTON AT (801) 538-3148.

RX: 560 34000000032

REQUEST FOR PROPOSAL - INSTRUCTIONS AND GENERAL PROVISIONS

1. **PROPOSAL PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. (c) Unit price will govern, if there is an error in the extension. (d) Delivery of services as proposed is critical and must be adhered to. (e) Incomplete proposals may be rejected. (f) This proposal may not be withdrawn for a period of 60 days from the due date. (g) Where applicable, all proposals must include complete manufacturer's descriptive literature. (h) By signing the proposal the offeror certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices offered are correct.

2. **SUBMITTING THE PROPOSAL:** (a) The proposal must be signed in ink, sealed, and if mailed, mailed in a properly-addressed envelope to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061. **The "Solicitation Number" and "Due Date" must appear on the outside of the envelope.** (b) Proposals, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section 3-209. (c) **Your proposal will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of proposals to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the proposal for consideration and approval by the Division of Purchasing & General Services (DIVISION). Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose will be paid by the state unless specifically included in the proposal and accepted by DIVISION. (e) By signing the proposal the offeror certifies that all of the information provided is accurate and that he/she offers to furnish materials/services for purchase in strict accordance with the requirements of this proposal including all terms and conditions.

3. **BONDS:** The state has the right to require a bid or proposal bond, payment bond and/or a faithful performance bond from the offeror in an amount not to exceed the amount of the contract.

4. **PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for non-disclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any proposal will not be considered proprietary. All material becomes the property of the state and may be returned only at the state's option. Proposals submitted may be reviewed and evaluated by any persons at the discretion of the state.

5. **BEST AND FINAL OFFERS:** Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Prior to award, these offerors may be asked to submit best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by a competing offeror.

6. **SAMPLES:** Samples, brochures, etc., when required, must be furnished free of expense to the state and if not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the offeror's expense.

7. **DIVISION APPROVAL:** Contracts written with the State of Utah, as a result of this proposal, will not be legally binding without the written approval of the Director of the DIVISION.

8. **AWARD OF CONTRACT:** (a) The contract will be awarded with reasonable promptness, by written notice, to the lowest responsible offeror whose proposal is determined to be the most advantageous to the state, taking into consideration price and evaluation factors set forth in the RFP. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made. Refer to Utah Code Annotated 65-56-21. (b) The DIVISION can reject any and all proposals. And it can waive any informality, or technicality in any proposal received, if the DIVISION believes it would serve the best interests of the state. (c) Before, or after, the award of a contract the DIVISION has the right to inspect the offeror's premises and all business records to determine the offeror's ability to meet contract requirements. (d) The DIVISION will open proposals publicly, identifying only the names of the offerors. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the due date. After the due date, a **register** of proposals shall be established. The **register** shall be open to public inspection, but the proposals will be seen only by authorized DIVISION staff and those selected by DIVISION to evaluate the proposals. The proposal(s) of the successful offeror(s) shall be open for public inspection for 90 days after the award of the contract(s). (e) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

9. **ANTI-DISCRIMINATION ACT:** The offeror agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also offeror agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the

product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

12. **GOVERNING LAWS AND REGULATIONS:** All State purchases are subject to the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33). These are available on the Internet at www.purchasing.state.ut.us.

(Revision 2/14/2000 - RFP.Instructions)

IN LIEU OF PREVIOUS BID – BID NUMBER NO3058

UTAH STATE PARKS AND RECREATION

UTAH HERITAGE PARKS/MUSEUMS AWARENESS AND PROMOTIONAL CAMPAIGN

PURPOSE OF REQUEST FOR PROPOSAL (RFP)

Utah State Parks and Recreation is undertaking a Heritage Parks Initiative for 2003 – 2004. The goals of the Initiative are to 1) promote visitation at Utah state parks and museums; 2) inform/educate the public on the significance of Utah's heritage parks and museums; 3) inform/educate the public about conservation of historic and cultural sites and resources within them; 4) promote the events scheduled as part of the heritage initiative.

The purpose of this request for proposal is to enter into a renewable contract with a local advertising/marketing/public relations agency for the coordination and production of a promotional campaign. The promotional campaign will focus on increasing awareness about heritage parks and museums within the Utah State Parks system. The campaign will also increase public awareness regarding the cultural and historic value of Utah's heritage parks, and educate and motivate visitors to visit the museums and parks.

The objective of this RFP is to establish a "Visit Utah's Heritage Parks" promotional campaign to all potential visitors by creating an excitement and interest in visiting heritage parks, which include:

Anasazi State Park Museum
Antelope Island State Park – Fielding Garr Ranch
Camp Floyd/Stagecoach Inn State Park and Museum
Edge of the Cedars State Park Museum
Fremont Indian State Park and Museum
Iron Mission State Park Museum
Territorial Statehouse State Park Museum
Utah Field House of Natural History State Park Museum
Wasatch Mountain State Park - Huber Grove/Tate Barn

The campaign includes promotion of special, scheduled events at the sites listed above, based on a unified theme to be determined.

Funding for this campaign will be provided by Utah State Parks. First-year funding for the contract will run from February 2002 through September 2003, with the potential of a one-year renewal option based on the success of the overall campaign and continuation of funding from Utah State Parks and other sources.

ADMINISTRATIVE GUIDANCE

The information provided herein is intended to assist in preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide interested offerors with sufficient information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or exclude any relevant or essential data. Offerors are at liberty and are encouraged to expand upon the specifications to evidence service capability under any agreement.

ISSUING OFFICE AND RFP REFERENCE NUMBER

The State of Utah Division of Purchasing is the issuing office for this document and all subsequent addenda relating to it. The reference number for the transaction is Bid Number NO3058. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP. Questions regarding the procurement process should be directed to Nancy Orton, State Purchasing Agent (801) 538-3148. Technical questions should be directed to Dee Guess, Natural Resources (801) 538-7320.

RESPONSE DATE

An original and seven copies of your proposal must be received at the State of Utah Division of Purchasing, Room 3150 State Office Building, Capitol Hill, Salt Lake City, Utah 84114 prior to the end of the day on January 17, 2003.

TERM OF CONTRACT

The contract will be an initial period of one year with an option to renew on a yearly basis for one additional year at the State's discretion and by mutual agreement of the contractor. The resulting contract will include a clause that prohibits the provider from discriminating against employees on the basis of their race, religion, age, national origin or handicap.

Contract renewal will be based on an annual review of contract terms and conditions, and be awarded at the discretion of the Division of Utah State Parks and Recreation and by mutual agreement.

FUNDING

For the first year, up to \$10,000 of state funds administered by Utah State Parks are presently committed to the promotional campaign.

Utah State Parks reserves the right to manage how all funds are used. Reports of all activities regarding how the funding for the campaign is expended shall be submitted to Utah State Parks.

CONSIDERATION OF PROPOSALS

Utah State Parks may award a contract based on the initial proposals received, without oral presentation and discussion with the offeror of such proposals. Accordingly, each initial proposal should be submitted with the most favorable price and standpoint. An oral presentation by an offeror to supplement a proposal may be required. These presentations will be scheduled, if required, following receipt of proposals and prior to the award. Utah State Parks reserves the right to reject any or all proposals received.

PROPOSED COSTS

The costs for the project should be defined according to the specific tasks to be taken, completion of which are termed "deliverables."

The awarded contractor will receive an up front payment on the award of the contract and then will be required to submit to the State itemized billings as deliverables are received by the State, but at least quarterly. Invoices will be paid to the contractor no later than 45 calendar days after the State receives the invoices. All billings and fees require a cost estimate and prior approval of expenditures. All billings and fees are also subject to audit by the State.

Utah State Parks is not liable for costs incurred by service providers prior to the issuance of any agreements, contracts, or purchase orders, and will not pay for information solicited or obtained.

The information obtained will be utilized in determining suitability of services offered. Subsequent procurement, if any, will be in accordance with appropriate State contractual action. Each offeror must provide a breakdown of costs to coordinate and manage the campaign, and specify all costs. Line items must indicate total number of hours required multiplied by the hourly rate. Utah State Parks pays for actual campaign costs only, no mark-up of services allowed.

CONFORMITY TO RFP SPECIFICATIONS

The offeror must respond to this Request for Proposal by submitting all requested information and addressing all systems specifications as required herein, in order for the proposal to be evaluated and considered for award. Failure to submit such data or to address all specifications shall be deemed sufficient cause for disqualification of a proposal from further consideration for award. Proposals received in response to this RFP will be for the entire project defined herein. No partial proposals will be considered for award. The offeror must certify in its proposal that its price includes performance of the complete requirements of this request.

If an offeror chooses to depart from the terms, conditions, specifications, or other requirements of the RFP, the departures may be specified in a second proposal submitted simultaneously with the primary proposal and labeled as an alternate proposal.

DISPOSITION OF PROPOSALS

All materials submitted in response to the RFP will become property of Utah State Parks and the State of Utah, and may be returned only at Utah State Parks option and at supplier expense.

DISCLOSURE

Cost and price information will be held in confidence and may not be revealed or discussed with competitors during the competitive process. Proposals submitted to Utah State Parks may be reviewed and evaluated only by those officials with a legitimate interest. Information considered by the service provider to be proprietary should be clearly identified as such. Utah State Parks reserves the right to use any ideas presented in any reply to the RFP. Selection or rejection of the proposals does not affect this right of the State.

COPYRIGHTS

All work products including, but not limited to software, product logos, slogans, etc., developed in the performance of the contract, is the property of Utah State Parks; therefore the contractor must assign full copyright ownership accordingly.

BACKGROUND

Utah's state parks host 7 million visitors annually. Our heritage parks make up a small percentage of this visitation and are underutilized. According to the Travel Industry Association of America Heritage tourism is in a high growth period. Yet this growth is not being realized in the State Heritage Parks even though they protect and interpret cultural resources of great interest and value.

RESPONSE TO PROBLEM

Utah State Parks is committed to educating potential visitors about the quality cultural and educational opportunities available at our parks and museums through an advertising and marketing process, resulting in increased revenues and visitation. We are planning a series of special programs in each of the parks listed above for the 2003 travel season that can be promoted under a

unified theme. We also plan to build on those programs with extended market research and a marketing plan during 2003 to prepare for a bigger promotional effort in 2004.

SCOPE OF PLAN

The services to be provided by the successful offeror are described below. The selected agency must generate a marketing plan for 2002 – 2003, that may be extended on an optional basis for one additional year. The plan is to include the following elements: 1) promote visitation at Utah state parks and museums; 2) inform/educate the public on the significance of Utah's heritage parks and museums; 3) inform/educate the public about conservation of historic and cultural sites and resources within them; 4) promote the events scheduled as part of the heritage initiative.

A summary of performance-based measures, include:

- 1) Development of a marketing campaign embracing all elements noted above.
- 2) Preparation of a budget for 1) plan development and 2) plan implementation with possible one-year extension option.
- 3) Recommendations for tracking success of the campaign.
- 4) Specification of any perceived plan limitations both in content and/or implementation.

TECHNICAL ISSUES

The offeror shall address in specific terms, plans for delivering each item detailed in the "Scope of Work" section of the RFP. The cost of proposed services must be included. The offeror will provide the method by which costs are determined. Utah State Parks has the authority to evaluate and change the method. The cost of additional services that the offeror may propose will be itemized separately. The successful contractor must:

- 1) Begin the marketing campaign upon signing the contract.
- 2) Expend no more than \$10,000, pending further or future funding.
- 3) Effectively evaluate the campaign's impact on the target audience.

PROPOSAL FORMAT

Proposals should be prepared in a straightforward and concise manner, in outline format, and should describe the service providers' offering(s) and capabilities in a format that is reasonable, consistent and appropriate to the purpose. Pertinent supplemental information should be referenced and included as attachments. All proposals must be organized and tabbed to comply with the following sections:

1. Letter of Transmittal. The letter of transmittal should include an introduction of the offeror's company, agency Internet URL, the name, address and phone number of the person to be contacted in conjunction with others who are authorized to represent the company in dealing with this RFP. It should also include an expression of the offeror's ability and desire to meet the requirements of this RFP.

Any other information not appropriately contained in the proposal itself should also be included.

2. Executive Summary. Include an executive summary that briefly describes the offeror's approach to the proposal and clearly indicates any options or alternatives. It should also indicate any major features of the proposal and identify any supporting information considered pertinent. In short, the reader should be able to determine the essence of the proposal and generally how well it meets the requirements by reading the executive summary.

3. Detailed Discussion. This section should constitute the major portion of the proposal and must contain at least the following information:

A general, but complete narrative overview of the offeror's assessment of the work to be performed and the ability to meet those aims, along with the resources necessary to meet the requirements of this RFP. This overview should clearly demonstrate the offeror's understanding of the desired overall performance expectations as well as to what degree it will meet the requirements.

4. Agency Facts and History. Provide the size of the agency in number of employees and billings. A list of premier agency accounts and current and/or former tourism/heritage/recreation related clients. In addition, a list of all accounts lost/resigned or gained during the past two years should be included.

5. Cost Proposal. The cost proposal will address all costs associated with the service described in the RFP. The cost proposal should demonstrate the cash and in-kind contributions that the offeror is willing to make towards this project. A description of such services will strengthen the proposal. The contractor must provide a compensation option in the proposal that would bill the department per hour, per project with no retainer or mark-up.

6. Personnel. A list of all key personnel, including the name of the project manager, who will have direct and significant responsibilities for providing the services specified in this RFP. For each person specified, establish his or her experience to be able to manage this campaign. Specifically for the project manager, provide a list of current accounts and an estimated percentage of time they will devote to this campaign.

7. Experience and Qualifications. A statement of the company's and key personnel's previous experience with similar projects and/or any other experience which qualifies them to successfully complete the project. Additional information or samples of materials used in previous projects must be submitted with this proposal.

8. Subcontracting. All subcontractors should be approved in writing by the Division and subject to the same terms and conditions as the contractor that holds an agreement or contract with the State.

PROPOSAL EVALUATION

If Utah State Parks awards a contract relative to this RFP, the terms of this contract will be based upon the completed proposal of the selected offeror. Therefore, the proposal should contain the most favorable business and technical terms that the offeror can submit to Utah State Parks.

Representatives from Utah State Parks and the Utah Department of Natural Resources will evaluate proposals. Evaluation will be focused toward, but not limited to the following:

1. Ability to successfully respond to the Scope of Services and Technical Issues.
2. The offeror's understanding of the issues and creative approach to the project.

3. Demonstrated ability to coordinate and generate added value through sponsors, partners, and in-kind contributions.

4. Ability to start and complete the project within the required time frame.

5. Ability to successfully complete the project based on qualifications, expertise, and previous experience of staff.

The five major criteria areas for evaluation of the proposals and their assigned weights:

Criteria

32% Ability to respond to the scope of services and technical issues, including creative approach, production capability and timeliness.

22% Ability to reach target audience.

30% Total value/budget of proposed project including in-kind contributions offeror will commit to the campaign.

15% Organization, personnel, expertise, and individual experience.

1% Clarity and organization of proposal.

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the STATE to purchase certain specified services, and other approved purchases for the STATE.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the CONTRACTOR for costs authorized by this contract. These records shall be retained by the CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The CONTRACTOR agrees to allow STATE and Federal auditors, and STATE Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** CONTRACTOR represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The CONTRACTOR shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the STATE to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the STATE, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the CONTRACTOR by the STATE. The CONTRACTOR shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the STATE for these contract services. Persons employed by the STATE and acting under the direction of the STATE shall not be deemed to be employees or agents of the CONTRACTOR.
7. **INDEMNITY CLAUSE:** The CONTRACTOR agrees to indemnify, save harmless, and release the STATE OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the CONTRACTOR'S officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The CONTRACTOR agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the CONTRACTOR agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written

explanation for review by the STATE.

12. TERMINATION: Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. SALES TAX EXEMPTION: The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
14. WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
15. PUBLIC INFORMATION: Contractor agrees that the contract will be a public document, as to distribution of copies, and Contractor gives the STATE express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.

(Revision date: Apr 24, 2002)